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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,759	07/20/2001	Aribert P. Wolframm	WOLFRAMM ET	1045

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BUCZINSKI, STEPHEN C

ART UNIT	PAPER NUMBER
3662	

DATE MAILED: 05/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
Examiner	Group Art Unit	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☑ Responsive to communication(s) filed on 20 JUL. 2001.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 1-3 is/are pending in the application.

Of the above claim(s)____ is/are withdrawn from consideration.

☐ Claim(s)____ is/are allowed.

☑ Claim(s) 1-3 is/are rejected.

☐ Claim(s)____ is/are objected to.

☐ Claim(s)____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☑ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☑ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☑ received.

☐ received in Application No. (Series Code/Serial Number)____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received:____.

Attachment(s)

☑ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☑ Notice of References Cited, PTO-892

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Interview Summary, PTO-413

☐ Notice of Informal Patent Application, PTO-152

☐ Other____

Office Action Summary

1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 1-3 are rejected under 35 U.S.C. § 103 as being unpatentable over Brown, Boles, or Madsen et al, anyone in view of Kreitmair-Steck et al.

All three primary references teach interferometric rotary SAR of the type claimed with two transceiving antennas being rotated. By definition the SAR functions "in the manner known per se". Kreitmair-Steck et al teaches multiple rotary ROSAR units in a common system.

It would have been obvious to have used any of the primary reference's interferometric type ROSAR in a multiple unit configuration as in Kreitmair-Steck et al, since the shared ROSAR technology provides the basis for the same known use in a different configuaration as in Kreitmair-Steck et al.

3. Claims 1-3 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims use improper or ambiguous antecedents throughout by the use of the article adjective "the" in first occurrences of terms such as "the revolving rotary" (1:6), "the difference" (1:6), "the measured" (1:7), "the manner" (1:8), "the wavelength" (1:9), "the emitted" (1:9), "the measured" (1:9), "the receive" (1:10), "the two" (1:10), etc.

4. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as based on a non-enabling disclosure. The specification and drawings do not describe "image dots on the graphics display screen" to enable one ordinarily skilled to make and use the same.

5. Claims 1-3 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

6. The non-statutory double patenting rejection, whether of the obvious-type or non-obvious-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute). *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornam*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78 (d).

Effective January 1, 1994, a registered attorney or agent of record may sign a Terminal Disclaimer. A Terminal Disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3 are rejected provisionally under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent Application Ser. No. 09/889759. Although the conflicting claims are not identical, they are not patentably distinct from each other because the presently claimed features are inherent elements of the SAR system claimed in the copending application.

7. Kikuchi et al and prior art submitted with the filing has been made of record.

8. The drawings are objected under 37 CFR 1.83 in that every feature claimed must be shown as argued above.

9. Any inquiry concerning this communication should be directed to Stephen C. Buczinski at telephone number (703) 305-1835.

Stephen C. Buczinski

STEPHEN C. BUCZINSKI
PRIMARY EXAMINER